



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Conduct Public Hearing regarding the appeal of Juan Diaz of a Planning Commission approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 S. Cherokee Lane

MEETING DATE: May 21, 2003

PREPARED BY: J.D. Hightower, City Planner

RECOMMENDED ACTION: Affirm the Planning Commission decision, regarding the request of Juan Diaz, to approve a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 S. Cherokee Lane with the condition that the applicant transfer an existing license from within Lodi to the proposed location.

BACKGROUND INFORMATION: On April 9, 2003, the Planning Commission approved the above use permit with the condition that the applicant transfer an existing license from within Lodi to the proposed location. The applicant is seeking to appeal this condition and seeking permission to transfer an existing license from within San Joaquin County.

The rationale for use permits for the sale of alcoholic beverages is the strong correlation of the availability of alcohol and crime. These crimes can be either direct or indirect causes of alcohol, such as DUIs, minor's use of alcohol, assaults, domestic violence as well as problems associated with public drunkenness and public decorum and otherwise affect Lodi's quality of life.

During the period of April 1, 2002 through September 29, 2002 there were 54 ABC licenses for off premise consumption (off-sale) within Lodi. These sites created a 724 reported incidents of which 127 (17.5%) involved alcohol or drugs. The average number of incidents for an ABC licensed site was 13.4 during this 6 month period or a projected annual number of 27 incidents.

Cherokee Lane had 12 active off-sale licenses during this reporting period (04/01/02 through 09/29/02). These sites generated 168 incidents or an average of 14 incidents during this 6 month period. It would be reasonable to expect that an off-sale license along Cherokee Lane would generate approximately 28 reported incidents per year. It should also be noted that a higher percentage of reported incidents along Cherokee Lane, 22.6%, involve Alcohol or Drugs.

The State has determined that off-sale ABC licenses should not exceed one license for every 2,500 people to avoid having an undue concentration within a given area. For administrative purposes, ABC defines the area as a census tract. In keeping with local control of land use,

APPROVED: _____


H. Dixon Flynn -- City Manager

localities can approve more licenses than this ratio, but must make a finding of public convenience or necessity. This finding must be given to ABC prior to their issuance of a license. This procedure was set as a response to the riots in Los Angeles where there was a high concentration of ABC licenses in the areas experiencing unrest.

The Cherokee Lane corridor has an undue concentration of licenses that adversely impacts the resources of the Police Department. The census tract in which the establishment is located, 44.01, currently has 12 active licenses. To avoid having the State defined undue concentration there would be 7 licenses in this census tract. This would require that the City make a finding of public convenience or necessity to issue a license in an area that has an undue concentration of licenses. Given the documented correlation between law enforcement impacts and ABC licenses, a finding of public necessity would be difficult to make. Being 5 licenses above the threshold it would also be difficult to find that an off-site beer and wine license would further the public convenience. As a practical matter, the site is across the street from Plaza Mini-Mart and a couple of blocks from Cherokee Mini Mart on the same side of the street. Additionally, as mentioned in an attached letter, there is a license at the adjacent Star Market that can be activated in accordance with ABC regulations.

The applicant states under the project description of the application a "want to sell beer for off-site in my store, per customers request, and to be able to offer the same services that my surrounding competition offers". To this end staff and the Planning Commission recognize that, in the words of Abraham Lincoln, "Important principles may and must be flexible."

In an effort to balance the applicant's desire with the impact created by a new license, the Planning Commission approved the Use Permit subject to the applicant securing a transfer of an existing ABC license from within Lodi to the La Capilla Market. The applicant is appealing this condition because of the lack of licenses currently available. Staff has checked with ABC and there are two available licenses, from the closed AM/PM Markets. The necessary transaction is a civil matter between a buyer and seller. The buyer, in this case, has ample time to accomplish this task. Pursuant to Section 17.72.050 of the Zoning Ordinance, the applicant has 18 months to secure a transfer of license to this location. This section goes on to state that a time extension can be granted beyond the 18 month timeframe.

The Planning Commission rational for the condition was to insure that the net number of outlets in Lodi does not increase because there currently is an over concentration of ABC licenses in Lodi as a whole. The threshold, according to ABC regulations, for a city the size of Lodi is 24 off sale licenses. Lodi currently has 54 off sale licenses.

An alternative to the Planning Commission action that would be consistent with current thought, Council could set a different maximum number of licenses within the City and direct staff to monitor the active licenses. As a practical matter, it would be advisable to set a ratio of licenses to population that would allow more licenses as population increases. To ease administration staff would recommend that a ratio of one off-sale license be reflective of our current distribution. This policy direction would allow Mr. Diaz to obtain a transfer license from out of town and we would deduct one of the existing unused AM/PM licenses. Staff is aware of three

other likely applicants that are interested in obtaining City approval for an off-sale license— the Rancho San Miguel Market at the old Tokay Bowling Alley Site; the Econo Gas Station at Victor Road and Beckman Road; and the new gas station proposed at the northeast corner of Stockton Street and Harney Lane. All three of these parties have stated that obtaining an ABC license is an important aspect of their business plan.

FUNDING: None required


Konradt Bartlam
Community Development Director



**MEMORANDUM, City of Lodi, Community Development
Department**

To: Planning Commission
From: J.D. Hightower, City Planner
Date: April 9, 2003
Subject: The request of Juan Diaz for a Use Permit to allow a liquor license
(Type 20) at 725 South Cherokee Lane.

SUMMARY

The proposed project is to establish a new Type 20 liquor license for La Capilla Market within an existing building at 725 South Cherokee Lane. Pursuant to Section 17.72.040.F of the zoning code, a use permit is required for the sale of alcoholic beverages. The requested license, Type 20, will allow the applicant to se sell wine and beer for off site consumption only.

BACKGROUND

The existing market is 1,580 square feet in size and specializes in meat and Hispanic groceries. The existing market is located on the southwest corner of Harold Street and Cherokee Lane. The building at 725 South Cherokee Lane has been used for a variety of uses in the past and was converted to a market with a building permit issued on January 9, 2002. Although a temporary occupancy has been granted to the market, final approval for the parking lot has not been obtained at this time awaiting completion of the required trash enclosure. The market currently has coolers for perishable goods. The applicant is seeking the ability to sell beer and wine from these coolers.

ANALYSIS

The rationale for conditional use permits for the sale of alcoholic beverages is the strong correlation of the availability of alcohol and crime. These crimes can be either direct or indirect causes of alcohol, such as DUIs, minor's use of alcohol, assaults, domestic violence as well as problems associated with public drunkenness and public decorum and otherwise affect Lodi's quality of life.

During the reporting period of April 1, 2002 through September 29, 2002 there were 54 ABC licenses for off premise consumption (off-sale) within Lodi. These sites created a 724 incidents of which 127 (17.5%) involved alcohol or drugs. The average number of reported incidents for an ABC licensed site was 13.4 during this 6 month period or a projected annual number of incidents of nearly 27 incidents.

Cherokee Lane had 12 active off-sale licenses during this reporting period (04/01/02 through 09/29/02). These sites generated 168 incidents or an average of 14 incidents during this 6 month period. It would be reasonable to

expect that an off-sale license along Cherokee Lane would generate approximately 28 reported incidents per year. It should also be noted that a higher percentage of reported incidents along Cherokee Lane, 22.6%, involve Alcohol or Drugs.

The Cherokee Lane corridor is area of Lodi has an undue concentration of licenses and has adverse impact upon the resources of the Police Department. The census tract in which the establishment is located, 44.01, currently has 12 active licenses while to avoid having an undue concentration there would be 7 licenses issued in this census tract. ABC requires that a city make a finding of public convenience or necessity to issue a license in an area that has an undue concentration of licenses. Given the documented correlation between law enforcement impacts and ABC licenses, a finding of public necessity would be difficult to make. Being 5 licenses above the threshold it would also be difficult to find that an off-site beer and wine license would further the public convenience. As a practical matter, from the site is across the street from Plaza Mini-Mart and is a couple of blocks from Cherokee Mini Mart on the same side of the street.

The applicant states under the project description of the application a "want to sell beer for off-site in my store, per customers request, and to be able to offer the same services that my surrounding competition offers". To this end staff recognizes that, in the words of Abraham Lincoln, "Important principles may and must be flexible."

There may be a way to accommodate the applicant's request while insuring that the establishment does not unduly impact the community. To insure that the establishment becomes an asset to the community, staff has developed a set of conditions that are complementary to one another. First, is that the applicant shall secure an off-sale license from an existing location within census tract 44.01 or along the Cherokee Lane corridor within the City. Currently, there is available a license from the former AM/PM market on the corner of Lodi Avenue and Cherokee as well as the license at the former Star Market that could be transferred to this operation. Thus there will not be a net increase in licenses within the area.

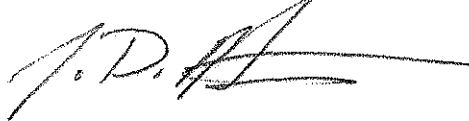
Secondly, staff recommends that prior to ABC license issuance, the applicant attend a Licensee Education on Alcohol and Drugs (LEAD) class and that a regular schedule be developed by the applicant to insure that employees attend this training. The LEAD training is a free, regularly scheduled class that is available through the State Department of Alcoholic Beverage Control at its Stockton office. The intent of this condition is to insure that the operator is adequately trained in rules and regulations concerning the sale of alcoholic beverages.

There is an active building permit on the site for the completion of the parking lot area. The major item of work that needs to be completed is the placement of gates on the trash enclosure. Staff recommends that the remaining items on this permit be completed prior to issuance of an ABC license. The applicant has made considerable improvements to the parking area and currently there is

a lunch wagon that parks on a regular basis at the site. There also a commercial grade barbecue placed on the site. The Type 20 license would not allow beer and wine purchased in the store to be consumed on-site and nor would staff encourage this type of activity at this location.

These two new conditions along with the standard conditions should help alleviate the correlation of crime and ABC licenses.

Respectfully Submitted,



J.D. Hightower
City Planner

KB/JH/lw

Reviewed & Concur,



Konradt Bartlam
Community Development Director

CITY OF LODI
PLANNING COMMISSION

Staff Report

MEETING DATE: April 9, 2003
APPLICATION NO: Use Permit 03-03
REQUEST: The request of Juan Diaz for approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license in conjunction with the La Capilla Market.
LOCATION: 725 South Cherokee Lane
APPLICANT: Juan Diaz
12773 Lower Sacramento Road
Lodi, CA 95240
PROPERTY OWNER: Juan Diaz
12773 Lower Sacramento Road
Lodi, CA 95240

Site Characteristics:

General Plan Designation: General Commercial
Zoning Designation: C-2, General Commercial
Property Size: 12,600 square feet

Adjacent Zoning and Land Use:

North: C-2, General Commercial; Single Family Residences
South: C-2, General Commercial; formerly "Star Market"
West: R-1 Eastside, Single Family Residences
East: C-2, General Commercial, Strip Commercial Center.

Neighborhood Characteristics:

The site containing the market is in the middle of a heavy commercial corridor of Lodi – Cherokee Lane. As such the immediate neighborhood of the area is developed with a wide variety of automobile oriented commercial land uses. The parking lot area of the site separates the commercial uses from the adjoining residential land uses to the east. The neighborhood is dominated by the traffic traveling along Cherokee Lane. Softening the impacts of the high volume traffic along Cherokee Lane is the landscape and streetscape improvements of this street. Also it should be noted that the applicant is in the process of improving the parking lot area with fencing, landscaping and pavers that has significantly soften the appearance of the site.

ENVIRONMENTAL ASSESSMENTS:

The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a)(2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing ...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE:

Notice for the Use Permit was published on March 29, 2003. A total of 41 notices were sent to all property owners of record within a 300-foot-radius of the subject property.

RECOMMENDATION:

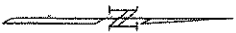
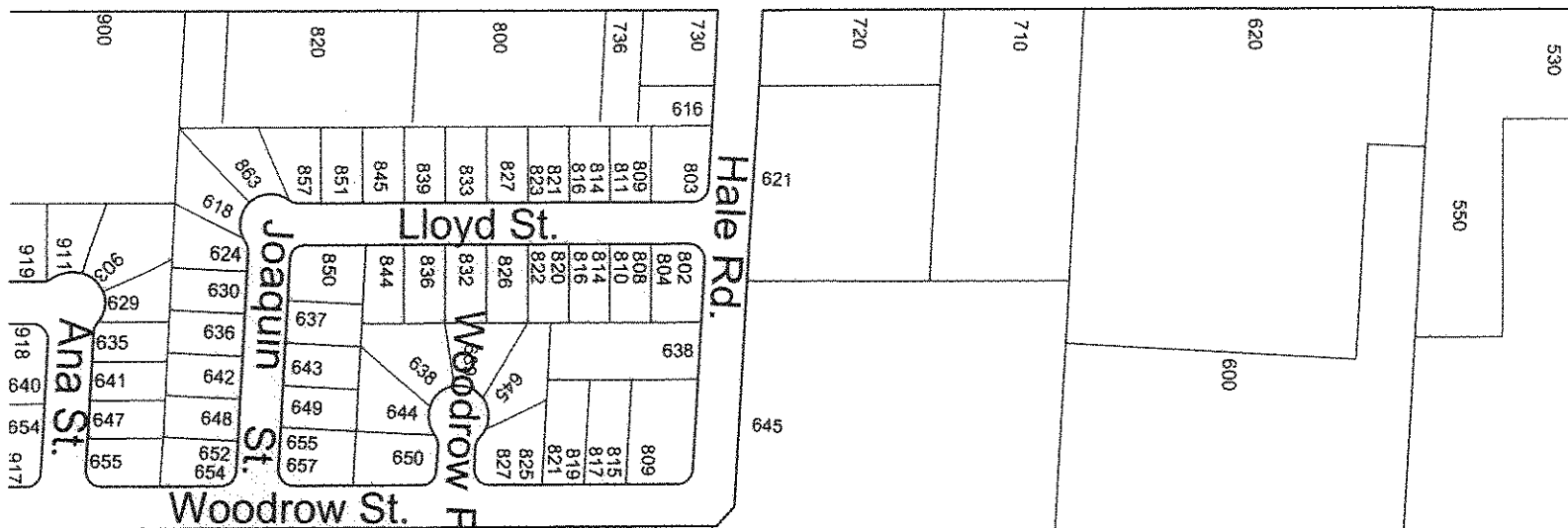
Staff recommends that the Planning Commission approve the request of Jaun Diaz for a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 South Cherokee Lane, subject to the conditions on the attached Resolution.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Use Permit with alternate conditions
- Deny the Use Permit
- Continue the Request

ATTACHMENTS:

1. Vicinity Map
2. Floor Plan
3. Draft Resolution

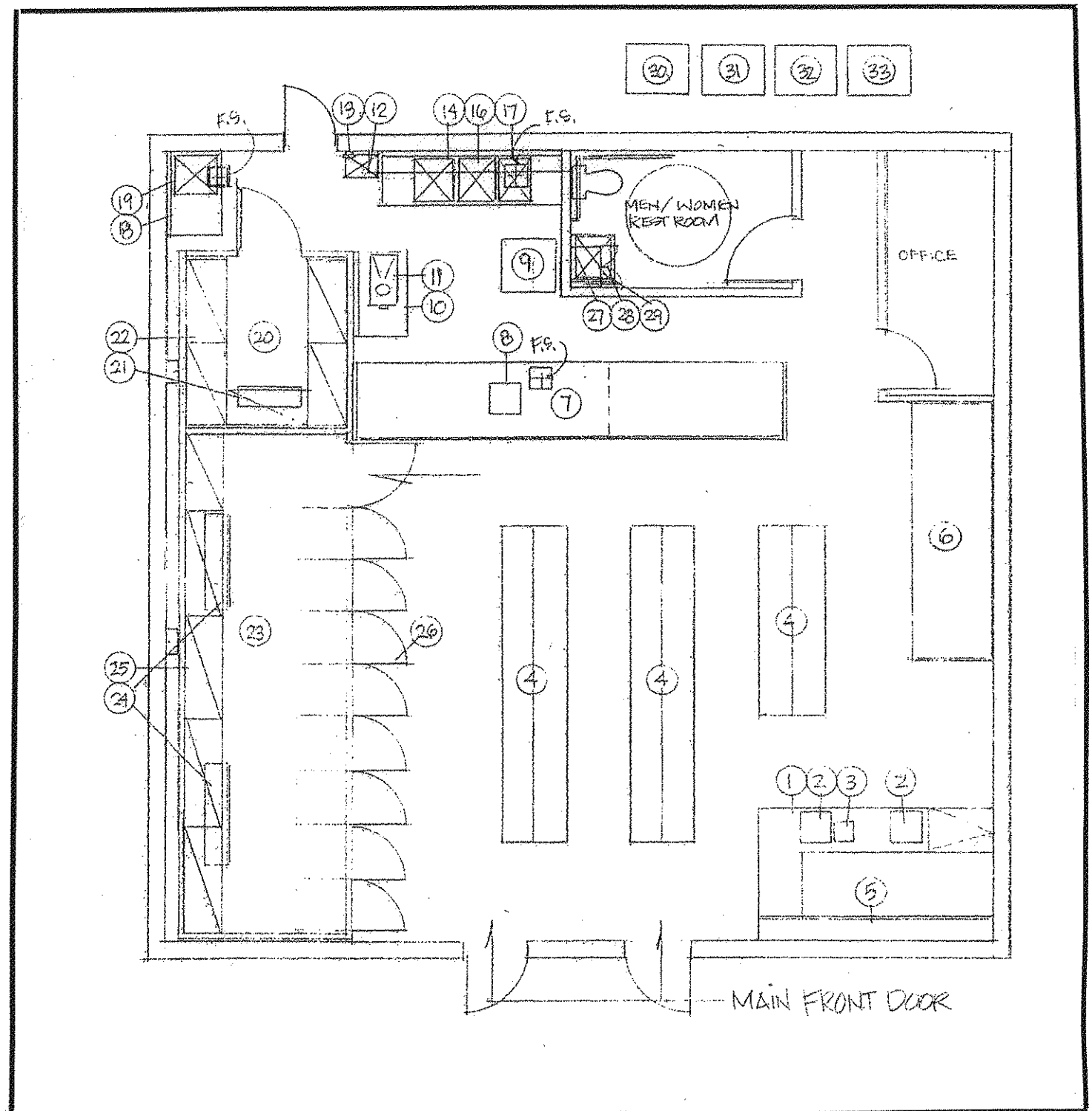




Conditional Use Permit

U-03-003 -- Juan Diaz

La Capilla Floor Plan



RESOLUTION NO. P.C. 03-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
APPROVING THE REQUEST OF JUAN DIAZ FOR A USE PERMIT TO ALLOW
THE OFF-SITE CONSUMPTION OF WINE AND BEER IN CONJUNCTION
WITH AN EXISTING MARKET AT 725 SOUTH CHEROKEE LANE

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070.

WHEREAS, the project proponent is Juan Diaz, 12773 Lower Sacramento Road; Lodi, CA 95240; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the property is zoned C-2, General Commercial; and

WHEREAS, the property is located at 725 South Cherokee Lane, Lodi, CA and is developed with an existing market; and

WHEREAS, the requested use permit to allow the selling of beer and wine for off-site consumption within the existing store is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

WHEREAS, the census tract in which the market is located has an undue concentration of licenses allowing off premise consumption of alcoholic beverages; and

WHEREAS, establishments along the Cherokee Lane corridor that have off premise consumption licenses experience a higher rate of reported incidents that have drugs and alcohol a factor than the rest of Lodi; and

WHEREAS, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages; and

WHEREAS, further it was found that there was public necessity and convenience for this license.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi as follows.

1. The project is categorically exempt according to the California Environmental Quality Act, §15321, Class 21 (Enforcement Action by Regulatory Agency). The permit is being granted under adoption of an administrative decision or order enforcing the ABC license and enforcing Section 17.72.070 of the Zoning Ordinance and no significant impacts are anticipated and no mitigation measures have been required.

2. Use Permit Application No. U-03-003 is hereby approved, subject to the following conditions:
 - A. The applicant shall operate and abide under all conditions of the State of California Department of Alcoholic Beverage Control license Type 20.
 - B. The applicant shall obtain an existing Type 20 license that is in place within Lodi city limits.
 - C. Prior to the issuance of a Type 20 license, the applicant shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
 - D. The applicant shall insure that the serving of beer and wine does not cause any condition which will cause or result in repeated activities which are harmful to the health, peace or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passerby, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
 - E. Prior to issuance of a Type 20 license, the applicant shall complete all work required under Building Permit 5830.
3. This conditional use permit shall be subject to periodic review for compliance with these conditions by the Planning Commission.
4. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: April 9, 2003

I hereby certify that Resolution No. 03-07 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 9, 2003 by the following vote:

AYES: Commissioners: Aguirre, Haugan, Mattheis, and Chairman Heinitz

NOES: Commissioners:

ABSENT: Commissioners: Crabtree, Phillips, and White

ABSTAIN: Commissioners:

ATTEST: 
Secretary, Planning Commission

DRAFT

Minutes from 4-9-03 Planning Commission Meeting

The request of Juan Diaz for approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 S. Cherokee Lane. Mr. Hightower presented the item to the Commission. The subject property is located in a high crime area along Cherokee Lane that already has an over concentration of 5 liquor licenses. If an additional license is granted, then the City has to make a finding of public convenience or public necessity. The applicant stated in his application the he would like to sell beer just like the other competition in the immediate area. Staff had drafted conditions above and beyond the normal conditions placed on ABC licenses. The additional conditions were that the applicant would secure a transfer of license from within the census area or along Cherokee Lane and the applicant shall attend classes instructed by ABC. Staff was recommending approval of the Use Permit with the conditions set forth in the Resolution.

Chairman Heinitz asked what the Census Tract was for the area. Mr. Hightower replied the Census Tract number was 44.01; which runs from the freeway to the railroad tracks, between Kettleman Lane and Lodi Avenue. The Census Tract currently had 12 active licenses for off-sale; which was an excess of 5 liquor licenses for the area.

Hearing Opened to the Public

Juan Diaz, 12773 North Lower. Sacramento Road, Lodi. Mr. Diaz was the applicant. He had no problem with the additional conditions put upon his Use Permit. He was currently working on the condition that required him to complete all work under building Permit B5830. He could not find a business in the same Census Tract that was willing to transfer their ABC license to him. He was able to locate an ABC license in the city of Manteca and they were willing to sell him the license, but he was unsure whether the City of Lodi would allow the license to be transferred from Manteca.

Commissioner Aguirre asked Mr. Diaz if the location of his store was the former "Corner Pocket" bar and why he did not purchase that liquor license when he purchased the property. Mr. Diaz replied that when he bought the business he was told by the previous owner that he could open up another bar if he wanted. The property was real run down when he purchased it and he had made many improvements. He was competing with other businesses in the area and felt the ABC license would make him more competitive. Every single Mexican store around him has a beer and wine license; which puts him at a disadvantage. He was concerned that the proposed Food 4 Less grocery store on Cherokee Lane would be granted a beer and wine license before him.

Chairman Heinitz told Mr. Diaz that he had done a tremendous job on improving the property.

Roger Fujita, 409 Applewood Drive, Lodi. Mr. Fujita owns the property adjacent to Mr. Diaz. He was in the process of selling his business to new owners. He felt that granting

another liquor license in the area would open the door for other people to apply for a license. There was not a need for another establishment to sell alcohol in the area. He felt that an establishment selling alcohol needed strong, responsible, and experienced people running the business.

Roger Stafford, 801 S. Mills Avenue, Lodi. Mr. Stafford gave Mr. Diaz a character reference. He stated that he had worked with Mr. Diaz for many years and he is not a "fly by night" that decided he wanted to make a little money. He asked how the Commission was going to handle Food 4 Less when they request an ABC license?

Hearing Closed to the Public

Commissioner Haugan liked to see free enterprise; however, there was already an over-concentration of liquor licenses in the area. He felt it would be difficult finding "public necessity" for a new liquor license in the area. If an exception were made, then there would be exceptions for everyone thereafter.

Chairman Heinitz did not like the idea of Mr. Diaz obtaining an ABC license from Manteca. He would like to see him purchase another license within Lodi, whether it was in Census Tract 44.01 or not.

The Planning Commission on motion of Commissioner Mattheis, Aguirre second, approved the request of Juan Diaz for approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 S. Cherokee Lane with the following changes to the Resolution 1) in the WHEREAS section, change West Elm Street to Harold Street; 2) add an additional finding that states "WHEREAS further we find that there is public necessity and convenience for this license; and 3) 2. (b) remove "Census Tract 44.01 or from an establishment located along the Cherokee Lane corridor" to "any Census Tract within the Lodi city limits, by the following vote:

AYES: Commissioners: Aguirre, Haugan, Mattheis, and Heinitz

NOES: Commissioners:

ABSENT: Commissioners: Crabtree, Phillips, and White

ABSTAIN: Commissioners

Juan Diaz from La Capilla
would like to Appeal the planning
commission's decision, that took place
on 4-9-03, and take it to the
city council, the condition was
that the licence ~~for~~ come from lodi;
can't be met because there is no
available licences in the city of lodi;
please Allow me to bring one in
from elsewhere or ~~prefer~~ preferable buy
a new one, since A.B.C. is willing
to issue one. Please Take ~~care~~
consideration.

RECEIVED

APR 16 2003

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Juan Diaz
of La Capilla
4-10-03

RECEIVED

2003 APR 14 AM 9:31

CITY CLERK
CITY OF LODI

CITY COUNCIL

SUSAN HITCHCOCK, Mayor
EMILY HOWARD
Mayor Pro Tempore
JOHN BECKMAN
LARRY D. HANSEN
KEITH LAND

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney

May 8, 2003

MAILED CERTIFIED MAIL #7000 1670 0008 4483 1395
AND REGULAR U.S. POSTAL DELIVERY

Mr. Juan Diaz
725 South Cherokee Lane
Lodi, CA 95240

NOTICE OF CITY COUNCIL PUBLIC HEARING – May 21, 2003

This letter is to notify you that a public hearing will be held by the City Council on **Wednesday, May 21, 2003, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

This hearing is being held to consider your appeal of the Planning Commission's decision on April 9, 2003 to approve a Use Permit to establish a type #20 Off-Sale Beer and Wine liquor license at 725 South Cherokee Lane with the condition that the applicant transfer an existing license from within Lodi to the proposed location.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. *Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.*

Should you have any questions, please contact my office or Community Development Director Konradt Bartlam at (209) 333-6711.

Sincerely,



Susan J. Blackston
City Clerk

SJB/PO

cc: Community Development Director



*Please immediately confirm receipt
of this fax by calling 333-6702*

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: TO SET PUBLIC HEARING REGARDING THE APPEAL OF JUAN DIAZ OF A
PLANNING COMMISSION APPROVAL OF A USE PERMIT TO ESTABLISH A
TYPE #20 OFF-SALE BEER AND WINE LIQUOR LICENSE AT 725 SOUTH
CHEROKEE LANE WITH THE CONDITION THAT THE APPLICANT TRANSFER
AN EXISTING LICENSE FROM WITHIN LODI TO THE PROPOSED LOCATION

LEGAL AD

PUBLISH DATE: SATURDAY MAY 10, 2003

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO:

SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, MAY 8, 2003

ORDERED BY:


PATRICIA OCHOA
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS Faxed to the Sentinel at 369-1084 at 11:11am (time) on 5/8/03 (date) 2 (pages)
5/8/03 Phoned to confirm receipt of all pages at 11:40 (time) Jac PO Tricia Jen (initials)



DECLARATION OF MAILING

**PUBLIC HEARING REGARDING THE APPEAL OF JUAN DIAZ OF A PLANNING COMMISSION
APPROVAL OF A USE PERMIT TO ESTABLISH A TYPE #20 OFF-SALE BEER AND WINE
LIQUOR LICENSE AT 725 SOUTH CHEROKEE LANE WITH THE CONDITION THAT THE
APPLICANT TRANSFER AN EXISTING LICENSE FROM WITHIN LODI TO THE PROPOSED
LOCATION**

On May 8, 2003, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a public hearing notice regarding the appeal of Juan Diaz of a Planning Commission approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 South Cherokee Lane with the condition that the applicant transfer an existing license from within Lodi to the proposed location, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2003, at Lodi, California.

ORDERED BY:

**SUSAN BLACKSTON
CITY CLERK, CITY OF LODI**

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

JENNIFER M. PERRIN
DEPUTY CITY CLERK

PATRICIA OCHOA
ADMINISTRATIVE CLERK



DECLARATION OF POSTING

PUBLIC HEARING REGARDING THE APPEAL OF JUAN DIAZ OF A PLANNING COMMISSION APPROVAL OF A USE PERMIT TO ESTABLISH A TYPE #20 OFF-SALE BEER AND WINE LIQUOR LICENSE AT 725 SOUTH CHEROKEE LANE WITH THE CONDITION THAT THE APPLICANT TRANSFER AN EXISTING LICENSE FROM WITHIN LODI TO THE PROPOSED LOCATION

On Thursday, May 8, 2003, in the City of Lodi, San Joaquin County, California, a copy of the notice to set public hearing for May 21, 2003, to consider the appeal of Juan Diaz of a Planning Commission approval of a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 South Cherokee Lane with the condition that the applicant transfer an existing license from within Lodi to the proposed location (attached hereto, marked Exhibit "A") was posted at the following four locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2003, at Lodi, California.

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

A handwritten signature in cursive script, appearing to read "Patricia Ochoa", written over a horizontal line.

Patricia Ochoa
Administrative Clerk

Jacqueline L. Taylor
Deputy City Clerk

Jennifer M. Perrin
Deputy City Clerk



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: May 21, 2003

Time: 7:00 p.m.

For information regarding this notice please contact:

Susan J. Blackston
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Wednesday, May 21, 2003, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) The appeal of Juan Diaz to the Planning Commission's decision to approve a Use Permit to establish a Type #20 Off-Sale Beer and Wine liquor license at 725 South Cherokee Lane with the condition that the applicant transfer an existing license from within Lodi to the proposed location.

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

Susan J. Blackston
City Clerk

Dated: May 7, 2003

Approved as to form:

Randall A. Hays
City Attorney

EXHIBIT B

Diaz Appeal

1. 04745027;GIANULIAS, CHRIS & PAULINE ;3220 PROVINCE TOWN CT ;MODESTO ;CA;95355
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